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C O N F I D E N T I A L SECTION 01 OF 03 TEGUCIGALPA 000067

SIPDIS

E.O. 12958: DECL: 01/29/2019

TAGS: [PGOV](#) [KJUS](#) [KCRM](#) [HO](#)

SUBJECT: AFTERMATH OF THE ELECTION OF THE HONDURAN SUPREME COURT

REF: TEGUCIGALPA 56 AND PREVIOUS

Classified By: Ambassador Hugo Llorens, reasons 1.4 (b & d)

11. (C) Summary: The election of Honduras' Supreme Court was both an historic and galvanizing event for the country, with public pressure leading to the selection of the most independent court in Honduran history. Private threats by President Manuel "Mel" Zelaya and his advisors were withstood by a coalition of democratic leaders from both major parties. The result is a weakened Zelaya, strengthened leaders of Congress and the opposition, and a very good Supreme Court that has been warmly welcomed by the Honduran public. Zelaya is expected to seek to appoint a loyalist as Attorney General--a move that could trigger further political confrontation. We will continue to work with Zelaya, though with caution, and provide sustained support for political leaders committed to the democratic process. End Summary.

Election of the Supreme Court Proves Historic  
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12. (C) The election of the next Supreme Court (reftel), which will serve for seven years, has proven to be both an historic and a galvanizing event for Honduras. Many in the political class assumed the election would be "business as usual," with the two major parties divvying up the court 8-7 and placing anyone they wanted on the body without regard for the rules established in the Constitution, as had been done with past courts. But the long process of institution-building and increasing transparency -- much of it due to U.S.-backed efforts -- of the past decade has raised public expectations. The public's demands for a better process led to the creation of a professional Nominating Board. Its members, generally enlightened representatives of civil society, despite their differences and their different constituencies, worked together to demand that the candidates meet all the requirements and to ensure that those with minimal political connections were selected.

13. (C) The resulting list created a quandary for the Congress -- would it accept the Board's list without question or risk the public's wrath by selecting some of its members' candidates. Both President Manuel "Mel" Zelaya and Congress President Roberto Micheletti argued (perhaps correctly, the Constitution is open to interpretation) that the Congress had

the right to re-elect current court members even if they were not on the Board's list. But public pressure against this proved to be too great, and, despite private threats from Zelaya that he would declare a state of emergency, the Congress selected all 15 members from the Board's list (reftel).

#### Aftermath

¶4. (C) The election of the new Supreme Court was followed by jubilation in the press and organized civil society, with the focus on the fact that the process had been respected, rather than on individual magistrates. Headlines read, "Democracy Wins!" received prominent placement. Criticism of Zelaya's pressure was universal. Zelaya, playing old-style Honduran politics, had missed the fact that the rules of the game had changed. His reaction to the loss has been to deny that threats were made. A sign of Zelaya's diminished stature came with the third anniversary of his presidency, marked on January 27 with a ceremony at El Picacho National Park. The previous two years' ceremonies garnered large crowds of party faithful, while this years' event could barely muster the full cast of Zelaya's Ministers.

¶5. (C) Those who came out of this crisis looking best were Micheletti and National Party leader and presidential candidate Porfirio "Pepe" Lobo. Immediately prior to the vote in Congress, members of all five parties gave Micheletti a standing ovation, which was an unusual gesture, especially

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after he originally sided with Zelaya and pressed others to give into Zelaya's demands. But the fact that he both stood up to the President's pressure and then gave up his own position in order to outmaneuver the President (reftel) had become known to Congressional members. Micheletti has used his new found popularity to push Liberal Party presidential candidate Elvin Santos, who soundly beat Micheletti in last November's primary, to grant his supporters more positions in the new government if Santos' wins the general election. Micheletti, not much in the public eye since his loss to Santos, also stepped up his profile by calling a meeting of all five political parties on January 27 to discuss the world economic crisis and Honduras' reaction to it. Lobo also came out looking good, as it is widely known that he insisted on sticking with the Boards list and refused to buckle under pressure. Finally, Santos has not had much public exposure over the past week, with most of the limelight on Micheletti and Lobo.

#### The 2009 - 2016 Supreme Court

¶6. (C) The new court is a step forward for Honduran democracy. Although the two major parties indeed divided the court into 8 Liberals and 7 Nationalists, the magistrates are not seen as being party hacks and there have been no accusations of corruption against any of them. And while all members of their respective parties, none have played major party political roles. This allows the court some measure of independence. In fact, the magistrates are somewhat unknown quantities, as even one of the most important power brokers in the country, Christian Democrat leader Arturo Corrales, commented that he had not known any one of them before their nomination. The Embassy is acquainted with several of them -- having awarded three members with International Visitor Program grants and Fulbright scholarships in the past (reftel). The one criticism the magistrates are receiving from the public is that they are very young (starting at age 35) and have less experience than previous courts. Because of this, however, they also do not bring with them the political baggage that a long career can create.

#### Next Crisis - Election of the Attorney General

17. (C) Despite having been outmaneuvered in the Supreme Court election, Zelaya is seeking political advantage. He has announced publicly on various occasions that a priority political battle was coming in March -- that of the election of the Attorney General. Local pundits see Zelaya as seeking to tap a loyalist to be the Attorney General to minimize the possibility that a hostile chief prosecutor would target him after he leaves office. The Attorney General will be elected through a process similar, though less complex than the one that elected the Supreme Court. A nominating committee will be formed by the President of the Supreme Court (Jorge Rivera Aviles), a second member representing the Supreme Court (not yet identified), one of the heads of the National Universities (the universities have not yet met), one representative of the Honduran Bar Association (probably Bar Association President Oscar Garcia, who participated on the Supreme Court Nominating Committee) and the Human Rights Commissioner (Dr. Ramon Custodio). Unnamed members of the committee should be identified in the next few days and meet almost immediately. The members must prepare a list to be presented to the Congress by February 7, thirty days before the current Attorneys' term ends (March 11). Election by the Congress requires a two-thirds vote. Although he has denied it publicly, Zelaya is likely to push to have a magistrate sympathetic to him appointed as the second member of the committee.

Comment

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18. (C) Zelaya has probably learned from his mistakes in the

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court election and will be better prepared for the Attorney General selection. In the meantime, Lobo, Santos and Micheletti learned that when united they can stand up to Zelaya. The three are political rivals and unlikely to stay unified in an election year, but all three are strongly committed to democracy and are likely to unify if Zelaya once again threatens the democratic process. We will continue to work with Zelaya on issues of mutual concern and long-term projects for Honduras, especially institutionalizing the Merida Initiative and security issues, support macroeconomic stability, and seek partnerships on renewable energy. At the same time, we will work to boost the profile of both presidential candidates, showing that the USG accepts them and is eager to work with whoever wins the election in November, and continue to maintain our positive relationship with Micheletti. We hope to shine a spotlight on our positive bilateral relationship with both candidates and will encourage them to make a trip to Washington over the next couple of months where we would recommend they be received by high-level USG officials. We will also encourage all high-level visitors to Honduras to engage with the candidates to cement their positions. For example, the visit of SOUTHCOM Admiral Stravidis came at an opportune time; we used his visit, including meetings with President Zelaya, a dinner with the military hierarchy and a lunch that included both presidential candidates, to show our support for the democratic process. End Comment.

LLORENS